### IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

CHRISTOPHER SADOWSKI,	§	
	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 4:17-cv-01562
	§	
BACKCHINA, LLC d/b/a	§	
WWW.21USCITY.COM	§	
	§	
Defendants.	§	Jury Demand

# MOTION FOR SUMMARY JUDGMENT THAT THE USE BY DEFENDANT BACKCHINA, LLC OF PLAINTIFF SADOWSKI'S PHOTOGRAPH IS A FAIR USE

Defendant BackChina, LLC, dba www.21uscity.com, ("BackChina") respectfully moves this Court for a determination that its use of the Sadowski Photograph originally from a New York Post news article in a BackChina news article was a Fair Use of the Sadowski Photograph. Contemporaneously with this Motion BackChina is filing a Memorandum in Support and a Statement of Undisputed Facts and Law.

#### **CONCLUSION AND PRAYER**

Defendant BackChina respectfully prays that this Court find Defendant BackChina's use of the Sadowski Photograph a Fair Use and dismiss Plaintiff claims. If the Court denies this Motion, Plaintiff respectfully requests a trial date on these issues at the Court's earliest convenience.

Respectfully submitted,

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## **Attorneys for BackChina**

#### **CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure and the Local Rules, I hereby certify that all counsel of record who have appeared in this case are being served on this day of October 13, 2017 with a copy of the foregoing via the Court's CM/ECF system and further as follows:

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<u>/s/ William P. Ramey, III</u> William P. Ramey, III